

AO 91 (Rev. 01/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the
District of New Mexico

United States of America)

v.)

Pedro VALENCIA)
Rito LOZANO-Payan)

Case No:

19MJ3548

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date of October 06, 2019 in the county of Hidalgo in the State and District of New Mexico, the defendant violated 8 U.S.C. §1324(a)(1)(A)(v)(I)(Conspiracy to Violate 1324 - All subsections), an offense described as follows:

Knowingly, intentionally, and unlawfully conspired, combined, confederated and agreed with others known and unknown, to commit offenses against the United States, namely: to transport, move, and attempt to transport and move an alien within the United States by means of transportation and otherwise.

This criminal complaint is based on these facts:

On Sunday, October 6, 2019, a Border Patrol Agent (BPA 1) was assigned to Radio/Desk Officer of the Lordsburg Border Patrol Station. At approximately 06:50 a.m., he received a call from Hidalgo County Central Dispatch requesting backup for a Lordsburg Police Department (LPD) Officer who conducted a vehicle stop at the intersection of United States Highway 70 and Mountain View Road in Lordsburg, New Mexico. BPA 1 along with another Border Patrol Agent (BPA 2) responded and arrived on scene at approximately 07:07 a.m. LPD Officer conducted a vehicle stop and cited the driver of a silver in color 2002 Subaru Forester bearing Colorado Temporary Plate #:1407437 for speeding. The LPD officer was unable to communicate with the subjects in the backseat.

☒ Continued on the attached sheet.



Complainant's signature

Kevin Rodriguez Olan, Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: October 8, 2019

City and state: Las Cruces, N.M.



Judge's signature

STEPHAN M. VIDMAR
U.S. MAGISTRATE JUDGE

Printed name and title

CONTINUATION OF CRIMINAL COMPLAINT

STATE AND DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA

V.

Pedro VALENCIA
Rito LOZANO

Continuation of Statement of Facts:

As BPA 1 approached the vehicle he saw the driver, later identified as Pedro VALENCIA standing near the LPD Officer, he also saw three individuals in the backseat, and a female identified as Christina MARTINEZ in the passenger seat. BPA 1 identified himself as a Border Patrol Agent and asked if the three in the backseat spoke and understood Spanish. All subject replied "yes I do". BPA 1 also informed them that this was an immigration inspection and he would be asking questions as to their citizenship. One subject asked "do you want to ask them too?" and pointed to the trunk compartment of the vehicle. Due to the vehicle being a hatchback BPA 1 was able to look over the backseat and saw two individuals laying down. Once the individuals in the trunk were sitting up and paying attention BPA 1 began asking questions as to their citizenship. All five subjects stated that they were citizens of Mexico and did not have the proper documents to be in, reside, or travel through the United States. The passenger, Christina MARTINEZ admitted to be a United States Citizen.

BPA 1 informed the five illegal aliens that they were under arrest for being in the United States illegally. At approximately 07:15, a.m., BPA 1 ordered them one by one to exit the vehicle and sit down with their hands on their knees off the side of the highway. Once all illegal aliens were secured and out of the vehicle, another Border Patrol Agent (BPA 3) arrived on scene and placed the passenger, Christina MARTINEZ along with the driver, Pedro VALENCIA, all United States Citizen under arrest for Alien Smuggling.

Once the situation was secure, BPA 1 ordered the subjects to remove all items from their pockets and place it in front of them. All subjects cooperated and removed their items from their pockets. One subject, later identified as Rito LOZANO-Pallan informed BPA 1 that he was in possession of marijuana. BPA 1 asked him to take it out, he produced from his pocket, a white round bag tied in a knot. LPD Officer cited LOZANO-Pallan and took possession of the marijuana. All subjects were transported to the Lordsburg Border Patrol station for further processing and Investigation.

*****ADDENDUM BY Field Intelligence Agents, MARTINEZ, Christina Marie (Passenger) Statement*****

On October 06, 2019 at approximately 10:19 a.m., Field Intelligence Agents (FIA) of the Lordsburg New Mexico Border Patrol Station in conjunction with a Homeland Security Special Agent (SA) conducted a post Miranda custodial interview with MARTINEZ, Christina Marie as a subject in the case of LOB2010000007. This interview was conducted in the English Language. The following is a written synopsis of the sworn statement made by MARTINEZ at the Lordsburg Border Patrol Station in Lordsburg, New Mexico. MARTINEZ was read her Administrative Rights via government form I-214 in the English Language. The statement of rights was provided to MARTINEZ who waived her rights and was willing to provide a statement and answer questions without the presence of an attorney. MARTINEZ stated that she had left Colorado on Friday to get to New Mexico and look for a place to live. When Martinez was questioned about how she came about having subjects in her vehicle, she stated that they had saw people walking on the side of the road who looked tired and they decided to give them a ride. MARTINEZ stated that she was staying at the rest stop near the I-10 by a Dairy Queen because they were tired of driving and were going to get back home. When MARTINEZ was asked where she had been looking for a place to live, she could not provide the city that they were looking in. MARTINEZ states that they took I-25 and went west and ended up in Deming, which it was the city they had entered into their G.P.S. MARTINEZ was asked about what time they had left the rest area in the morning and could not provide a direct answer. When MARTINEZ was questioned about the time from when they left the rest area till the time they were pulled over she could not provide clear responses to where their whereabouts. At approximately 10:27 a.m., MARTINEZ no longer wished to answer questions or provide any additional statements without the presence of an attorney.

ADDENDUM BY Field Intelligence Agents, VALENCIA, Pedro (Driver) Statement

On October 06, 2019 at approximately 10:34 a.m., Field Intelligence Agents (FIA) of the Lordsburg New Mexico Border Patrol Station in conjunction with a Homeland Security Special Agent (SA) conducted a post Miranda custodial interview with VALENCIA, Pedro as a subject in the case of LOB201000007. This interview was conducted in the English Language. The following is a written synopsis of the sworn statement made by VALENCIA at the Lordsburg Border Patrol Station in Lordsburg, New Mexico. VALENCIA was read his Administrative Rights via government form I-214 in the English Language. The statement of rights was provided to VALENCIA who waived his rights and was willing to provide a statement and answer questions without the presence of an attorney. VALENCIA stated that he made his way down to Deming, New Mexico because that's what were he was told that there were jobs available for framing and construction. VALENCIA stated that he took I-25 south went through Hatch, New Mexico and then made his way to Deming. VALENCIA stated that while in Deming, they went to a Walmart but spend most of their day at the rest area. VALENCIA stated that he saw them walking out off the side of the road and gave them a ride just to help them out. VALENCIA stated that when he picked them up they were supposed to pitch in for gas money when they got to Silver City, New Mexico. VALENCIA states that the man sitting in the middle of the back seat told him they would give him money. VALENCIA was questioned as to where he picked up the subjects they were in the vehicle to which he answer he believed it was 113. VALENCIA was then presented evidence that was obtained from the car, which in someone's handwriting reads "Salida 113" and "Rumbo Playas." VALENCIA then self-admitted that while he was at the park in Colorado he was approached by a subject who had told him if they were interested in going to Deming to pick up illegal aliens. VALENCIA was told he would be paid but was not told the amount that he would be paid as a whole or for individual person. VALENCIA also stated that he was never told the amount of people that would be getting into his vehicle but did admit to being in the area to pick up and transport them to Colorado. VALENCIA stated that when he was pulled over that the police officer that pulled him over had only seen the three people sitting in the back seat but stated that he then told the officer that there were an additional two in the back where the luggage is. VALENCIA provided U.S Border Patrol with consent to search his phone at approximately 10:58 a.m. VALENCIA stated that he was in contact with someone and in contact with him up until the day that he picked up the subjects on Highway 113 off Interstate 10. He states that he had been called in the morning and they were called while sleeping in the car and had just spoken to him in the morning. The contact was listed on his contact list as "Rito". VALENCIA states that he was provided Rito's number and arranged pick up date with him. The following information on the phone matched the information that was also listed on LOZANO-Payan, Rito's phone. VALENCIA admitted that he had written down "Salida 113" on the piece of paper found in his car, as well as "rumbo playitas". VALENCIA stated that he had never done this before. The following interview concluded at 11:05 a.m.

ADDENDUM BY Field Intelligence Agents, LOZANO-Payan, Rito (Foot Guide) Statement

On October 06, 2019 at approximately 12:44 p.m., Field Intelligence Agents (FIA) of the Lordsburg New Mexico Border Patrol Station in conjunction with a Homeland Security Special Agent (SA) conducted a post Miranda custodial interview with LOZANO-Payan, Rito as a subject in the case of LOB201000007. This interview was conducted in the Spanish Language. The following is a written synopsis of the sworn statement made by LOZANO-Payan at the Lordsburg Border Patrol Station in Lordsburg, New Mexico. LOZANO-Payan was read his Administrative Rights via government form I-214 in the Spanish Language. The statement of rights was provided to LOZANO-Payan who waived his rights and was willing to provide a statement and answer questions without the presence of an attorney. LOZANO-Payan stated that he traveled from Cuauhtemoc to Camello, Mexico to make entry into the United States. LOZANO-Payan stated that his friend in Mexico, would be picking him up. LOZANO that he originally arranged with him but was provided the cell phone number that belonged to VALENCIA, Pedro. When questioned and asked pertaining to a call that was placed from his cellular device on October 1, 2019 where the duration of the call was over 5 minutes. LOZANO-Payan still declined and stated that yes he spoke to the driver of the vehicle the day of but had never arranged for him to be picked up, that it was supposed to be his other friend. LOZANO-Payan was questioned about a solar panel that was in his property in which he attempted to place that property with another subject in the group who then admitted that the property belonged to LOZANO-Payan. LOZANO-Payan stated that he was given the drivers phone number and that he contacted the driver on numerous occasions that morning to arrange where they would be getting picked up. LOZANO-Payan also mentioned that he sat in the middle seat of the back row which cooperated the statement of the driver that the subject in the middle of the back row was the person that was going to be paying him for what he originally claimed to be gas money. LOZANO did admit for being a foot guide in the past but states that in the past he was only forced to do so by the cartel "La Nueva Gente." Based on the information on his phone and the information on the driver's phone, there is evidence that LOZANO-Payan conspire with VALENCIA, Pedro to commit alien smuggling.

Disposition:

AUSA was contacted and accepted for prosecution under 8 USC 1324 Conspiracy for VALENCIA, Pedro and LOZANO-Payan, Rito.

Continuation of Statutory Language:

A handwritten signature in blue ink, appearing to be 'J. A. [unclear]', written over a horizontal line.

Signature of Judicial Officer

A handwritten signature in black ink, appearing to be 'Rodriguez Olan', written over a horizontal line.

Signature of Complainant

Rodriguez Olan, Kevin
Filing Agent